

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Mary Sellers,
Appellant,

v.

Polk County Board of Review,
Appellee.

ORDER

Docket No. 13-77-0717
Parcel No. 010/05045-003-001

On September 23, 2014, the above-captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. Sean Sellers, the Appellant's spouse and property co-owner, represented the Appellant. Assistant Polk County Attorney Ralph Marasco, Jr. represented the Board of Review. The Appeal Board, having reviewed the record, heard the testimony, and being fully advised, finds:

Findings of Fact

Mary Sellers is the owner of a residentially classified property located at 3130 SW 38th Place, Des Moines, Iowa. The property is a one-story, brick home built in 2000 with 3852 square feet of total living area. The property has a full, walkout basement with 3100 square feet of living-quarter finish, 1752 square feet of open porch areas, a patio, and a 1406-square-foot attached garage. The site is 1.038 acres.

Sellers protested to the Board of Review regarding the 2013 assessment of \$884,900. She claimed the property was assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), and asserted the correct total value was \$560,000. The Board of Review granted the petition, in part, and reduced the assessment to \$625,100, allocated as \$72,900 in land value and \$552,200 in improvement value.

Sellers then appealed to this Board re-asserting her claim.

Sellers purchased the subject property in December of 2012 for \$568,000. Co-owner Sean Sellers testified the sale was not a foreclosure or any other type of distressed sale because it occurred on the open market between two unrelated parties. The sale was from a survivor's trust, and the trustee lived in California. Sellers explained the actual fair market value of the property must be what they paid for the property, less \$8000 in seller concessions, or \$560,000.

The Board of Review submitted an appraisal of the subject property, which it received from the Appellant when the assessment was protested. (Exhibit B). The appraisal has an effective date of November 9, 2012, and was completed for financing purposes. Edward McDaniel of Rally Appraisal, LLC, West Des Moines, prepared the report and concluded an opinion of value of \$625,000. McDaniel developed the sales comparison approach and considered six sales in his analysis. The sales occurred between May 2011 and August 2012. After McDaniel adjusted the sales for differences, they ranged in value from roughly \$616,000 to \$673,500. Five of the sales support a value between roughly \$616,000 and \$633,000. McDaniel considered Sales 1 and 6 as the most reliable. Both were the most recent transactions and required minimal adjustment.

Conclusion of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin Cnty. Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value.

§ 441.21(1)(b). In interpreting this provision, the Iowa Supreme Court has stated that while the sales price of a property may be evidence of its market value, the sales price *alone* is not determinative of the market value. *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289 (Iowa 1996). Rather, the subject property's sales price in a normal transaction is a matter to be considered in arriving at market value but does not *conclusively* establish the subject's market value. *Id.* at 290. If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered.

§ 441.21(2). The property's assessed value shall be one hundred percent of its actual value.

§ 441.21(1)(a).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Sellers' asserts the December 2012 sale price of the subject property is sufficient in determining the market value. However, the sale was the result of a survivors trust with the Trustee living out of state, which may have negatively impacted the sales price. Further, the sale price of the subject does not conclusively establish its market value and the assessment should not be based solely on the sale price. *Riley*, 549 N.W.2d 289; IOWA REAL PROPERTY APPRAISAL MANUAL 1-2, *available at*

<https://tax.iowa.gov/sites/files/idr/documents/1INTRODUCTIONSECTION.pdf>. For these reasons, we do not find the sale price sufficiently determinative of the subject property's market value.

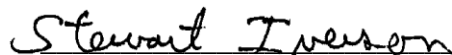
Moreover, the Board of Review provided a mortgage appraisal of the property that valued it at \$625,000 as of the purchase date, which was only several months before the assessment date. Sellers did not provide any evidence to contradict or rebut the appraisal's conclusions. We find the appraisal is the best evidence in the record of the fair market value as of January 1, 2013, and supports the assessment.

THE APPEAL BOARD ORDERS the 2013 assessment of Mary Sellers' property located at 3130 SW 38th Place, Des Moines, Iowa of \$625,100, set by the Polk County Board of Review, is affirmed.

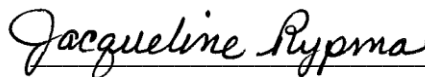
Dated this 14th day of October, 2014.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:

Sean Sellers
3130 SW 38th Place
Des Moines, Iowa 50321
REPRESENTATIVE FOR APPELLANT

Ralph Marasco, Jr.
Assistant County Attorney
111 Court Avenue
Room 340
Des Moines, Iowa 50309
ATTORNEY FOR APPELLEE